

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 184 - SB 195

March 9, 2019

SUMMARY OF ORIGINAL BILL: Creates the *Proton Therapy Access Act*. Requires the state group insurance program to cover a physician prescribed hypofractionated proton therapy to deliver a biological effective dose by paying the same aggregate amount as would be paid for the delivery of the same biological effective dose with IMRT for the same indications, upon the following conditions being satisfied: coverage is provided to an eligible patient who is being treated as part of a clinical trial or registry and the radiation oncologist prescribing the hypofractionated proton therapy protocol is board certified or board eligible in the specialty of radiation oncology. If these conditions are met, a course of hypofractionated proton therapy may be provided; however, the aggregate cost to provide such therapy must be equal to the average cost paid by the state for an entire course of IMRT treatment to deliver the same biological effective dose.

Requires that separate aggregate amounts be established for various disease indications, such as breast, prostate, lung, head and neck, and gastrointestinal by reference to the amount paid for a course of IMRT treatment for each indication under the state group insurance program.

Requires that such aggregate amount provided to cover the cost of the course of hypofractionated proton therapy be paid in a single payment. Subjects such coverage to annual deductible and co-insurance payments; however, such payments may not exceed the annual deductible and co-insurance established for all other similar benefits within a policy or contract of insurance. Notwithstanding Tenn. Code Ann. §56-7-1005, the provisions of this legislation shall only apply to the state group insurance program.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

Potential Impact on Health Insurance Premiums (required by Tenn. Code Ann. § 3-2-111): Such legislation could result in an increase in the cost of health insurance premiums for hypofractionated proton therapy treatment being provided by the state group insurance plan. It is estimated that the increase in premiums could be less than one percent. A one percent increase in premium rates could range between \$50 (single coverage) and \$140 (family coverage) depending on the type of plan.

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

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SUMMARY OF AMENDMENT (005282): Deletes all language after the enacting clause. Creates the *Proton Therapy Access Act*. Requires the state group insurance program to cover a physician prescribed hypofractionated proton therapy protocol to deliver a biological effective dose by paying the same aggregate amount as would be paid for the delivery of the same biological effective dose with a standard radiation therapy treatment protocol delivered with IMRT for the same indications, upon the following conditions being satisfied: coverage is provided to an eligible patient who is being treated as part of a clinical trial or registry, is diagnosed with a cancer type or indication that can be treated with a hypofractionated proton therapy protocol, the radiation oncologist prescribing the hypofractionated proton therapy protocol is board certified or board eligible in the specialty of radiation oncology, and the hypofractionated proton therapy protocol is administered in a facility in this state. If these conditions are met, a course of hypofractionated proton therapy may be provided; however, the aggregate cost to provide such therapy must be equal to the average cost actually paid by the state group insurance program for standard IMRT treatment radiation therapy protocol required to deliver the prescribed biological effective dose for the particular indication.

Requires that aggregate amounts be established by reference to the amount paid for a course of IMRT treatment under a standard IMRT radiation therapy protocol for the indication under the state group insurance program. Subjects such coverage to annual deductible and co-insurance payments; however, such payments may not exceed the annual deductible and co-insurance established for all other similar benefits within a policy or contract of insurance. Prohibits the aggregate amount chargeable to or payable by an eligible patient for a covered course of hypofractionated proton therapy by an out-of-network provider from exceeding the aggregate amount that would otherwise be chargeable to or payable by the eligible patient for a course of treatment under a standard IMRT radiation therapy protocol that is covered by the state group insurance program for the delivery of the same biological dose by an out-of-network provider. States the patient is not responsible for amounts above the allowable maximum charge. Notwithstanding Tenn. Code Ann. §56-7-1005, the provisions of this legislation shall only apply to the state group insurance program.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- This legislation will require coverage of hypofractionated proton therapy for members of the state group insurance program; however, the cost paid by the state cannot exceed the aggregate cost to provide a similar biological dose through IMRT.
- Any cost to provide a course of hypofractionated proton therapy will substitute a course of IMRT, and be cost neutral; therefore, this legislation is estimated to have no significant impact on state or local government expenditures associated with those plans.

- The Department of Commerce and Insurance (DCI) is responsible for regulation of the provisions of the legislation. Any cost incurred due to regulation can be accommodated within existing resources without an increased appropriation or reduced reversion.
- This legislation provides that no deductible or co-insurance payment made by members of the state group insurance plan for hypofractionated proton therapy may exceed such payments made for other similar benefits.
- Dependent on a healthcare professional's directive to the patient, the election by such providers to submit the patient to a course of hypofractionated proton therapy, in lieu of a course of IMRT, will be considerably more expensive.
- It is assumed that the cost neutrality language in the legislation will incentivize healthcare providers to elect IMRT over hypofractionated proton therapy, as there is no guarantee that the increased cost to provide hypofractionated proton therapy will be reimbursed by the health insurer.
- To the extent that healthcare providers direct patients to hypofractionated proton therapy over IMRT, members of the state group insurance plan will experience an increase in premium payments to cover such increase in costs.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Due to the cost neutrality language in the legislation, the state is only required to pay the cost for a course of hypofractionated proton therapy up to the aggregate amount that would have been incurred in providing a course of IMRT.
- It is assumed that the cost neutrality language in the legislation will incentivize healthcare providers to elect IMRT over hypofractionated proton therapy, as there is no guarantee that the increased cost will be reimbursed by the health insurer.
- Any increase in costs incurred by the insurance company to cover hypofractionated proton therapy for members of the state group insurance plan will result in a corresponding increase in premiums paid by such members.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Krista Lee Carsner, Executive Director

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